IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9270 of 2000

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUNJAN PAINTS LTD

Versus

REGIONAL PROVIDENT FUND COMMISSIONER

Appearance:

1. Special Civil Application No. 9270 of 2000

MR GM JOSHI for Petitioner No. 1

MR PJ MEHTA for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 29/01/2004

ORAL JUDGEMENT

1. The present petition is preferred by the petitioner for challenging the legality and validity of the order dated 14.2.2000, Annexure-E passed by the

Regional Provident Fund Commissioner in purported exercise of powers under section 14-B of the Employees Provident Fund and Miscellaneous Provisions Act, 1955 (hereinafter referred to as "the Act").

2. Having heard Mr.Joshi for the petitioner and Mr.Mehta for the respondent, it appears that against the impugned action under section 14-B of the Act, statutory remedy of appeal to the appellate Tribunal is available under section 7-I of the Act. However, Mr.Joshi submitted that the Presiding Officer is not available in the appellate Tribunal and therefore, the petitioner may not be relegated to the remedy of appeal. He also submitted that pending this petition, the amount in question is already deposited and the apprehension on the part of the petitioner is that the Authority may initiate proceedings for prosecution. Mr.Mehta appearing for the respondent Authority submits that since the amount is already deposited and if the petitioner is relegated to the remedy of preferring appeal, no further action shall be taken.

3. In the above circumstances, I am of the view that the following directions shall meet the ends of justice:

(i) The petitioner is relagated to the remedy of preferring appeal under section 7-I of the Act and the such appeal shall be preferred within a period of two months from today.

(ii) The amount already deposited by the petitioner pending this petition shall be subject to the outcome of the appeal and until the appeal is finally decided, the respondent shall abide by the statement made by his advocate recorded hereinabove and in any case, status quo shall be maintained.

4. The petition is disposed of in terms of the above directions. Rule is discharged.

(Jayant Patel, J.)
(vjn)